

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.188 OF 2006

The Commissioner of Central Excise
and Customs, Nashik .. Appellant.

Versus

M/s.Krishna Filaments Ltd. .. Respondent.

Mrs.S.V. Bharucha for the appellant.

Mr.Kiran Doiphode i/by Doiphode & Co. for the
respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 20TH JULY, 2007.

P.C. :

1. The appellants had preferred this appeal against the order dated 6-9-2004 dismissing the appeal on the ground that the CCE (Aurangabad) had no authority to prefer appeal and CCE (Adjudication) was authorised to file the appeal. A corrigendum was issued on 1st September, 1999 whereby expression "Commissioner (Adjudication) of C. Excise, Mumbai" was to read as "Commissioner, Central Excise & Customs, Aurangabad". On the date when the order was passed by the Appellate Authority in Appeal, the corrigendum was not brought to his notice and the same was produced while deciding miscellaneous application which has also been rejected.

2. In our opinion, considering Section 35E of the Central Excise Act, 1944 as it then stood, the issuance of corrigendum can have no effect as the power could only be conferred on the Regional Commissioner of Central Excise who was the adjudicating authority. In the instant case, the Commissioner of Central Excise (Aurangabad) was not adjudicating authority. Even otherwise also he could not have preferred the appeal.

3. In that view, the question of law as framed could not arise. Hence, the appeal is dismissed.

4. It will be open to the appellant to take such steps to which they are entitled to in law.

5. The appeal is disposed of with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)